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**IN THE MATTER OF FACT-FINDING
BETWEEN**

**CITY OF STRONGSVILLE)
AND)
FRATERNAL ORDER OF POLICE)
LODGE NO. 15)**

CASE NO. 02-MED-09-0846

**FINDINGS
AND
RECOMMENDATIONS**

JAMES M. MANCINI, FACT-FINDER

APPEARANCES:

FOR THE FOP

Frank G. Bolmeyer, Esq.

FOR THE CITY

James A. Budzik, Esq.

SUBMISSION

This matter concerns fact-finding proceedings between the City of Strongsville (hereinafter referred to as the Employer or City) and the Fraternal Order of Police, Lodge No. 15 (hereinafter referred to as the Union or FOP). The State Employment Relations Board (SERB) duly appointed the undersigned as fact-finder in this matter. The fact-finding proceeding was held on March 18, 2003.

The fact-finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law as well as the rules and regulations of SERB. During the fact-finding proceeding, this fact-finder attempted mediation of the issues at impasse. The issues remaining for this fact-finder's consideration are more fully set forth in this report.

The bargaining unit consists of all full-time patrol officers in the City's police department. There are approximately seventy-five employees in the bargaining unit.

This fact-finder in rendering the following findings of fact and recommendations on issues at impasse has taken into consideration the criteria set forth in Ohio Revised Code Section 4117(G)(6)(7). Further, this fact-finder has taken into consideration all reliable evidence presented relevant to the outstanding issues before him.

1. WAGES AND PROFESSIONAL PAY

The Union proposes wage increases of 3.75% in each of the first two years of the Agreement and 4% to be effective on January 1, 2005. In addition, the Union proposes increases in the professional pay to \$1,000 in 2003, \$1,400 in 2004, and \$1,750 in 2005. Currently, there is a professional wage supplement provided to the employees in the amount of \$500. The City proposes a wage increase of 2% for the bargaining unit based upon a one year contract. The City opposes any increase in the annual professional pay supplement.

The Union contends that there should be equalization of pay between the Strongsville police officers and the fire fighters. It is for that reason that it seeks yearly increases in the professional pay supplement of \$500 in 2003, \$400 in 2004, and \$350 in 2005. The Union submits that there is no justification for the disparity between the compensation paid to the Strongsville fire fighters as compared to the City's police officers. The Union also notes that the fire fighters were granted a wage increase of 3.75% in the current year.

The Union further cites wage comparables in support of its position. Of the eight comparable cities noted, the total compensation received by Strongsville police places them in the middle of the pack. With the Union's proposed wage and professional pay increases, the bargaining unit here would move to second position on the comparable data list with total compensation being similar to that currently received by the Westlake

police. The Union maintains that such increases in compensation are warranted here due to the increased demands for police service in the City.

Finally, the Union disputes the City's contention that it cannot fund any wage increase beyond that which it proposes. The Union presented as an expert in finances the testimony of Ms. Susan Beke, a Certified Public Accountant. Ms. Beke stated that the City appeared to be in good financial condition at the current time. She reviewed the City's finances and determined that it could fund the Union's proposed wage and professional pay increases out of currently available resources.

The City contends that it has an extremely limited ability to pay due to a significant decline in income tax revenue. The City's Finance Director, Don Batke, testified that income tax receipts had declined by approximately \$560,000 for the year 2002 as compared to 2001. The declining trend in income tax receipts has continued during the current year according to the Finance Director. The City's General Fund balance at the end of year 2002 also decreased to a point below that which is normally recommended as the minimum needed to meet operating expenses. Mr. Batke indicated that unless there are tight budgetary constraints put into effect, the City could possibly have to layoff employees. The Finance Director concluded by requesting that a wage increase be provided for only one year so that the City would be in better position to analyze its financial outlook for 2004. The police department budget approved for 2003 did not include any wage increases.

The City also cites wage comparables in support of its position. According to the City, when total compensation is considered including base salary, longevity, and other forms of compensation such as professional pay, the bargaining unit employees here compare quite favorably with other patrolmen in the area. With a 3% wage increase for example, the City's patrolmen would receive total compensation in 2003 of approximately \$54,808 which would be above the average for patrolmen in the area.

The City disputes the FOP's contention that there should be internal parity with the fire fighters. The City points out that there are different and distinct job duties performed by the fire fighters as compared to the patrolmen. There simply was no basis established for providing total compensation for the patrolmen which is equivalent to that received by the fire fighters. The City also notes that its proposed wage increase is consistent with the general cost of living increase nationally.

ANALYSIS – This fact-finder, upon review of the evidence and arguments presented by the parties, recommends that wages be increased by 3.75% effective January 1, 2003 based upon a one year contract. This fact-finder does not recommend any increase in the professional pay supplement.

With the recommended wage increase herein, the Strongsville patrolmen will be able to retain their current relative ranking with respect to wages paid to patrolmen in the area. The evidence shows that with the recommended 3.75% increase, the top wage for patrolmen would be increased to \$53,296. Such a top wage would compare quite favorably with those paid to patrolmen in comparable communities in the area.

The recommended 3.75% increase in wages for the bargaining unit here is based in part on the fact that the City's fire fighters received such a wage increase for the current year. To a certain extent, this fact-finder would agree with the Union that at least with respect to wage increases, patrolmen and fire fighters should be treated the same. However, this fact-finder does not find any basis to the Union's contention that with respect to other types of compensation, the fire fighters and patrolmen should be treated identically. Rather as the City points out, fire fighters and patrolmen perform separate and distinct duties for which they are duly compensated. Moreover even the Union's own comparables indicate that many cities provide differences in compensation for their police and fire fighters. It should be noted that in 1999, the fact-finder duly appointed at that time likewise held that he could not agree that patrol officers were entitled to parity with the fire fighters. As was noted at the time, there has been no history of equalization of compensation between the two uniformed forces. This fact-finder certainly recognizes the extensive training which patrolmen must undergo but considering the City's financial difficulties, it simply would be inappropriate at the present time to attempt to achieve compensation parity between the fire fighters and patrol officers.

In rendering his recommendation herein, this fact-finder has also taken into consideration the evidence which indicates that the City has legitimate financial concerns at the current time. Due to the economic downturn, income tax revenue for the City of Strongsville has declined significantly by approximately \$560,000 over the past two years. As attested to by the Director of Finance, the decline in revenue has continued

during the current year. Mr. Batke testified that the General Fund reserve has likewise decreased to a very low level. The City anticipates approximately a \$250,000 year ending cash reserve for 2003. There was also evidence showing that healthcare costs have risen dramatically for this Employer as it has done for others throughout the region. Considering the City's budgetary constraints resulting from the economic downturn, as well as the comparable wage evidence produced, this fact-finder has concluded that the recommended general wage increase of 3.75% based upon a one year Agreement is fair and reasonable. Moreover, due to the financial difficulties currently facing the City, this fact-finder must find that it would be inappropriate to provide for any increase in professional pay as proposed by the Union. Again as discussed previously, the internal parity argument presented by the Union with respect to fire fighters simply lacks merit at the current time in light of the City's budgetary constraints.

RECOMMENDATION

It is the recommendation of this fact-finder that there be a general wage increase of 3.75% based upon a one year Agreement with no further increase in professional pay as proposed by the Union.

WAGES

Effective January 1, 2003 – 3.75% wage increase.

No increase in professional pay supplement.

2. HEALTH INSURANCE

The City proposes that prescription co-pay amounts be modified to include a \$5.00 generic co-pay; \$15.00 name brand co-pay; and \$25.00 non-formulary co-pay. Moreover, the City has proposed to include a provision that in the event that spouses are employed by the City, regardless of bargaining unit or non-bargaining unit status, the spouses would be subject to one family plan coverage. The Union opposes any change in prescription co-pay. The Union also proposes that the City provide employees who elect coverage by Kaiser Permanente with substantially similar dental, vision and life insurance coverage as that provided to employees covered by the other healthcare plans offered by the City.

The City maintains that due to rising healthcare costs, it is essential that there be a change in prescription co-pays. It proposes the same language which has been agreed upon by the Service Department employees. With respect to dental coverage for those under the Kaiser Plan, the City points out that it has agreed to offer those employees the basic Delta Dental Plan which is an option provided by Kaiser itself.

The Union opposes any change in prescription co-pays. With respect to those employees enrolled in the Kaiser Permanente Plan, the Union points out that in the past the City has offered dental coverage via a rider from the other major medical insurers. Kaiser provided no dental coverage in prior years. According to the Union, it was improper for the City to unilaterally choose a basic Delta Dental Plan provided by Kaiser as the only option available to Kaiser option employees.

ANALYSIS – This fact-finder would recommend the prescription co-pay modifications as proposed by the City. That is, it is recommended that the prescription co-pay amounts be modified to include a \$5.00 generic co-pay; \$15.00 name brand co-pay; and \$25.00 non-formulary co-pay. In addition, a provision would be included so that in the event that spouses are employed by the City, the spouses would be subject to one family plan coverage. In effect, this fact-finder would recommend the precise language set forth in the recently negotiated Service Department contract.

This fact-finder has determined that there was a reasonable basis established for the modification in the prescription drug co-pays. As the City noted, healthcare costs have risen dramatically during the past year. The changes in prescription co-pays will at least help in part to reduce healthcare costs. It should be noted that the kind of prescription co-pays recommended herein are becoming more prevalent and are found in other public sector contracts.

This fact-finder has further determined that there should be no change in the current dental benefit coverage offered to those enrolled in the Kaiser Permanente Plan. This fact-finder would recommend that the City continue to offer the Delta Dental Plan provided by Kaiser. There simply was insufficient basis established for returning to the dental coverage offered previously by the City for those enrolled in the Kaiser Plan. The question raised by the Union that the City unilaterally changed the dental option for Kaiser enrollees in violation of the Collective Bargaining Agreement cannot properly be addressed in this forum. The Union's claim that the Health Insurance Provision has been

violated by the City would be more appropriately addressed through the Grievance Procedure set forth in the parties' Agreement. The subject raised simply falls outside of the scope of this fact-finder's jurisdiction in the instant matter.

RECOMMENDATION

It is the recommendation of this fact-finder that the Health Insurance Provision be modified with respect to prescription co-pays. The current Delta Dental Plan offered to Kaiser enrollees should also be retained.

HEALTH INSURANCE BENEFITS – Modified as follows:

Hospitalization insurance shall be furnished by the Employer for all full-time employees including comprehensive major medical benefits and prescription drug benefits. Effective as soon as practicable, the Employer may implement a drug prescription co-pay of \$5.00 for generic drugs; \$15.00 for formulary name brand drugs; and \$25.00 for non-formulary name brand drugs as set forth in the City's prescription plan. The City shall also continue to provide major dental and vision care as currently in effect, as well as life insurance, accidental and dismemberment insurance.

In those cases where both spouses are employed by the City of Strongsville in any position or capacity, only one (1) will be eligible for health insurance coverage, which shall be the family plan as determined by first date of birth. In such circumstance, only the one eligible spouse shall be required to pay the premiums as set forth in section 28.03.

The Employer shall have the right to select or change insurance carriers or coverage at its discretion provided such changes shall be effective for other City employees under the health plan. All benefits will remain as good or better regardless of the carrier.

Retain Delta Dental Plan for employees covered by Kaiser Permanente.

3. HOLIDAYS

The Union proposes to increase the number of holidays eligible for overtime pay. Specifically, the Union requests that employees who work on July 4th be compensated at the overtime rate for all hours worked. The City opposes increasing the current overtime eligible holidays.

The Union seeks the addition of the Fourth of July premium pay holiday because of the hardship imposed upon employees by the loss of the opportunity to be with their family on that day. The FOP points out that the fire fighters have been provided with the Fourth of July as an overtime holiday. The Union also cites comparables which it claims supports its position that overtime pay be provided to those who must work on the Fourth of July.

The City maintains that any increase in the current number of holidays eligible for overtime pay would be too costly. The City points to its already tight police department budget which would be seriously affected by the addition of the Fourth of July as an overtime holiday.

ANALYSIS – This fact-finder recommends that effective for the current year, that July 4th be added to the holiday overtime eligibility list. Support for this recommendation is found first in the fact that the City provided the fire fighters with an additional premium pay holiday for 2003. The fire fighters currently have three such overtime holidays as compared to the two which the police unit has at the present time. Moreover, comparables show that three or more overtime holidays are provided to

patrolmen in five other communities in the area. It is commonly recognized that police officers do incur a hardship whenever they are required to work on significant family holidays like the Fourth of July. Finally as even the City seemed to acknowledge, the addition of the Fourth of July as a premium pay holiday would have minimal cost implications.

RECOMMENDATION

It is the recommendation of this fact-finder that the Fourth of July be added to the holiday overtime eligibility list.

HOLIDAYS

Add Fourth of July as a premium pay holiday.

4. VACATIONS

The Union proposes to enhance the vacation entitlement to provide three weeks of vacation after five years of service, four weeks after ten years, and five weeks after fifteen years. It also seeks to add a sixth week of vacation after twenty years of service. The City opposes any change in the current vacation entitlement.

The Union claims that its proposal is supported by vacation entitlements found in comparable police departments. The Union acknowledges that the proposed amendment in vacations would grant the bargaining unit a more generous schedule than other employees receive in the City. However, the comparables cited strongly support the change in the vacation schedule proposed. The Union also notes that the fact-finder appointed in 1999 who gave exhaustive analysis of comparable data of seventeen communities, found that a reduction in the accrual schedule for three and four week vacation entitlements was appropriate.

The City maintains that it would be too costly to change the current Vacation Provision. If more vacation entitlement were granted to the police unit, it would result in considerably more overtime. Moreover, the City points out that all other employees including the fire fighters receive the exact same vacation entitlement as that currently provided to the patrolmen.

ANALYSIS – This fact-finder does not recommend any change in the current Vacation Provision. First, internal comparisons show that the police unit receives the exact same vacation entitlement as that provided to all other City employees. Moreover,

there would be significant cost implications for the City if vacation allotments were changed as proposed by the Union. As the City noted, with more vacation time granted, there would be considerably more overtime costs involved. While comparable data submitted with respect to other communities in the area would seem to support the Union's proposal for six weeks of vacation for officers with twenty years of experience, this fact-finder would not recommend such a change at the current time due to the City's financial difficulties. It should be noted that an enhancement in the vacation entitlement for patrolmen was granted during the last negotiations.

RECOMMENDATION

It is the recommendation of this fact-finder that there be no change in the current Vacation Provision.

VACATION – Current language, no change.

5. GRIEVANCE PROCEDURE

The Union proposes under Step 1 and 2 of the Grievant Procedure to remove the language “or his designee” which would require the grievance to be heard specifically by the Chief of Police and subsequently by the Mayor/Safety Director. The City proposes to retain the current language which permits the Police Chief and the Mayor/Safety Director to appoint a designee to hear a specific grievance.

The Union argues that grievances should be heard at Steps 1 and 2 specifically by the Police Chief and then the Mayor. The City submits that the current language is reasonable and would not result in undue delays of grievance processing in the event the Chief or Mayor/Safety Director is unavailable to hear a grievance.

ANALYSIS – This fact-finder does not recommend any change as proposed by the Union concerning the “or his designee” language set forth in the grievance procedure. There simply was no showing made that there was any need for changing the Step 1 and Step 2 language. Certainly, it is reasonable to allow the Chief or Mayor to appoint a designee at Steps 1 and 2 if they are unavailable during the processing of a grievance. Such a procedure means that there would not be any undue delays in the processing of a grievance.

RECOMMENDATION

This fact-finder would not recommend any change in the Grievance Procedure as proposed by the Union concerning the “or his designee” language found under Steps 1 & 2.

GRIEVANCE PROCEDURE – The “or his designee” language found under Steps 1 and 2 of the Grievance Procedure shall be retained.

6. INJURY WAGE CONTINUATION

The City initially proposed to lower the current 120 calendar provision to 90 calendar days for the injury wage continuation benefit. However, the City indicated that it would withdraw its proposal concerning this issue if a one year contract is recommended. As discussed hereinafter, this fact-finder is recommending a one year contract. Therefore for purposes of this fact-finding report, the City's proposal concerning the Injury Wage Continuation Provision is considered to have been withdrawn.

RECOMMENDATION

With respect to the City's Injury Wage Continuation proposal, this fact-finder considers it to have been withdrawn for the reason indicated.

INJURY WAGE CONTINUATION

City's proposal withdrawn - Current language, no change.

7. DURATION

The City proposes a one year Agreement. The Union takes the position that there should be a three-year Contract.

The City contends that a one year Contract is appropriate especially considering the financial difficulties which it is currently facing. The City will not be in a position to grant any increases in the second and third year of the Agreement until the economic picture for those years become clearer and appropriate financial data is compiled at the end of 2003. The City also desires to eliminate the so-called “whip saw” effect of staggered contracts with its police, fire and service divisions.

The Union argues that bargaining history supports a three-year Agreement. Moreover, it would be costly to the parties to have to enter into negotiations immediately upon the execution of a one year Contract for the current year. Protracted negotiations certainly cause a disruption to the bargaining unit and the department.

ANALYSIS – This fact-finder would recommend that there be a one year Agreement. Normally, this fact-finder would recommend a multi-year Agreement but given the City’s financial difficulties, it is evident that a shorter one year Contract would be appropriate. Until the complete financial picture becomes clearer for the City, there can be no recommended wage increases for the second and third years of the Agreement. The City’s Finance Director indicated that he expects economic conditions to improve over the next two years but he cannot say so with any certainty until after all of the financial data is compiled at the end of the current fiscal year.

Moreover, the City's agreements with the fire fighters, police dispatchers, as well as the service workers all have contract termination dates of December 31, 2003. This fact-finder would agree there should be internal consistency with those other contracts so as to avoid the so-called "whip saw" effect of staggered negotiations and contracts. In all respects, it is apparent that a one year Agreement with an expiration date of December 31, 2003 would also be appropriate for the bargaining unit here.

RECOMMENDATION

This fact-finder would recommend a one year Agreement in the instant case.

DURATION

One year Agreement – January 1, 2003 through December 31, 2003.

CONCLUSION

In conclusion, this fact-finder hereby submits the above referred to recommendations on the outstanding issues presented to him for his consideration. Further, this fact-finder would recommend that all tentative agreements previously reached by the parties be incorporated into their final Agreement.

APRIL 3, 2003



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